

EX PARTE OR LATE FILED

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Implementation of Section 309(j)
of the Communications Act
Competitive Bidding)

PP Docket No. 93-253

To: The Commission)

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EX PARTE COMMENTS

THE NATIONAL ASSOCIATION OF BLACK
OWNED BROADCASTERS, INC.

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November 3, 1994

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EX PARTE COMMENTS

The National Association of Black Owned Broadcasters, Inc. ("NABOB"), by its attorneys, hereby submits its Ex Parte Comments in the above-captioned proceeding. NABOB submits:

A. PROPOSED REVISIONS TO AUCTION RULES

The FCC should:

1. Provide the maximum bidding credit (currently 25%) and ten year financing and all other benefits accorded to small minority owned companies (collectively "the maximum auction benefits") to all minority owned businesses which fall within the \$125 million dollar entrepreneur band size limit, not just those under \$40 million.
2. Increase the bidding credit for all minority owned companies to 40%, rather than the current 25% maximum.

3. Allow aggregation of minority owned companies as long as each individual company falls within the \$125 million entrepreneur band size limit.
4. Allow minority owned companies to qualify for the maximum auction benefits so long as the control group holds a minimum of 50.1% of the vote and 15% of the equity. Apply this control formula to all minority owned entities, corporations, limited partnerships and combinations in which the general partner of a limited partnership is a corporation. Continue to allow any non-designated entity to own up to 49.9% of an entity, including those structured as described herein.
5. Split the Entrepreneur C band and F band auctions, such that C band is auctioned first. C band Form 175 applications should be filed 30 days after the completion of the A and B band auctions. The F band should be auctioned separately before or with the D and E band.
6. Limit the number of pops any bidder can obtain in the A, B and C band auctions to no more than 10% of the U.S.
7. Assuming the above proposals are adopted, the Commission should increase the required holding period to 7 years. Allow a designated entity to sell an amount of equity to reduce its control to 50% and to increase the ownership of a no-designated entity in the entity to 50% at the end of the fifth year.
8. Initiate an expedited rulemaking to determine whether the various mega-merger alliances which have been announced for PCS bidding in the A and B blocks are in the public interest and will not result in an undue concentration of control in the PCS/cellular industry.

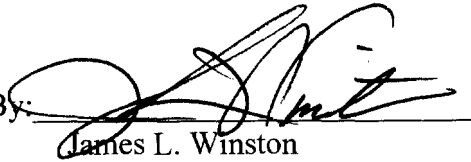
B. RATIONALE FOR PROPOSED REVISIONS

1. The public interest will be served if minority owned companies obtain PCS licenses in large urban markets where they can: (1) provide employment opportunities to minority residents, and (2) bring the benefits of the information superhighway to urban residents.
2. No single minority owned company under the \$125 million size limit has the requisite financial leverage to finance the auction price, construction and operating costs of a major urban market. Aggregation permits smaller and larger D.E. companies to joint venture.
3. The competitive landscape of potential PCS providers has changed drastically since the FCC first announced its proposed rules for PCS in September 1993. Since that Announcement, AT&T has acquired McCaw Cellular, Bell Atlantic, NYNEX, U.S. West and Air Touch have formed a Cellular and PCS partnership, and Sprint, Cox Cable and Comcast Cable have formed a PCS partnership. These mega-mergers have substantially changed the potential PCS landscape, with several negative effects. They have: (1) substantially reduced the number of strategic partners available to partner with designated entities, (2) substantially reduced the markets in which most of these companies will need frequencies in the C and F blocks due to the proviso, inherent in these alliances, that the partners will not intrude upon another's "turf"; (3) the dominant market position of the companies involved in these alliances has substantially reduced the amount of competition, and hence the amount of money which is likely to be bid in the A and B auctions, and (4) because of the fear on the part of investors that designated entities cannot successfully compete against these newly merged entities, and because these entities do not intend to avail themselves of the capital markets in ventures with designated entities, the

mergers have had a "chilling effect" on the capital which might have been available to designated entities, had strategic partnerships been created.

Respectfully submitted,

**THE NATIONAL ASSOCIATION OF
BLACK OWNED BROADCASTERS, INC.**

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